

Amendment No. 1 to HB2493

Watson
Signature of Sponsor

AMEND Senate Bill No. 2371

House Bill No. 2493*

by deleting the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-13-301, is amended by adding the following as a new, appropriately designated subdivisions:

() "Advertisement" means a notice or an announcement in a public medium promoting a product, service, or event, or publicizing a job vacancy;

() "Commercial sex act" means any sexual act for which something of value is given or received;

() "Minor" means an individual who is less than eighteen years old;

SECTION 2. Tennessee Code Annotated, Section 39-13-309, is amended by deleting the section in its entirety and by substituting instead the following:

39-13-309.

(a) A person commits the offense of trafficking a person for a commercial sex act who:

(1) Knowingly subjects, attempts to subject, benefits from or attempts to benefit from another person's provision of a commercial sex act; or

(2) Recruits, entices, harbors, transports, provides, or obtains by any other means, another person for the purpose of providing a commercial sex act.

(b) For purposes of subdivision (a)(2), such means may include, but are not limited to:

- (1) Causing or threatening to cause physical harm to the person;
- (2) Physically restraining or threatening to physically restrain the person;
- (3) Abusing or threatening to abuse the law or legal process;
- (4) Knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of the person;
- (5) Using blackmail or using or threatening to cause financial harm for the purpose of exercising financial control over the person; or
- (6) Facilitating or controlling a person's access to a controlled substance.

(c) A violation of subsection (a) is a Class B felony, except where the victim of the offense is a child under thirteen (13) years of age, or where the offense occurs on the grounds or facilities or within one thousand feet (1,000') of a public or private school, secondary school, preschool, child care agency, public library, recreational center, or public park, a violation of subsection (a) is a Class A felony.

SECTION 3. Tennessee Code Annotated, Title 39, Chapter 13, Part 3, is amended by adding the following as a new section thereto:

39-13-314.

(a) A person commits the offense of advertising commercial sexual abuse of a minor if the person knowingly sells or offers to sell an advertisement that would appear

to a reasonable person to be for the purpose of engaging in what would be a commercial sex act, as defined in § 39-13-301, with a minor.

(b)

(1) Advertising commercial sexual abuse of a minor is a class C felony.

(2) In addition to any authorized period of incarceration, advertising commercial sexual abuse of a minor is punishable by a minimum fine of ten thousand dollars (\$10,000).

(c) In a prosecution under this statute, it is not a defense that the defendant did not know the age of the minor depicted in the advertisement. It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant made a reasonable bona fide attempt to ascertain the true age of the minor appearing in the advertisement by requiring, prior to publication of the advertisement, production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper of the minor depicted in the advertisement and did not rely solely on oral or written allegations of the minor's age or the apparent age of the minor.

SECTION 4. Tennessee Code Annotated, Section 40-39-202, is amended in subdivision (20)(A) by adding the following as a new, appropriately designated subdivision:

(xviii) Trafficking a person for a commercial sex act, under § 39-13-309; or

SECTION 5. This act shall take effect July 1, 2012, the public welfare requiring it.